

## Council of Governors (in Public)

### Item 13.4

**Subject:** Governor Fit & Proper Persons Requirement Compliance  
**Date of Meeting:** Tuesday 5th March 2024  
**Prepared by:** Gill Donnelly, Membership & Communications Officer  
**Presented by:** Karan Wheatcroft, Director of Risk & Improvement

#### 1. Introduction

The 'fit and proper persons' test set out in Regulation 5 of the *Health and Social Care Act 2008 (Regulated Activities) Regulations 2014* (updated 2022) came into force on the 27<sup>th</sup> November 2014 and is aimed at making sure that those individuals who have authority in organisations that deliver care are responsible for the overall quality and safety of that care, and as such can be held accountable if standards of care do not meet legal requirements.

The 2014 regulations were introduced in response to the failings at the Winterbourne View Hospital and the Francis Inquiry into Mid Staffordshire NHS Foundation Trust. A new Fit and Proper Framework was introduced by NHS England in 2023.

This Policy applies to all Board Directors – Executive and Non-Executive; Associate (non-voting) attendees of the Board and Governors. It applies to all permanent, acting and interim Board level positions.

Whilst providers have a general obligation to ensure that they only employ individuals who are fit for their role, the 'fit and proper persons' test must be applied for all new Directors and Governors; and there must be systems and processes in place to provide ongoing assurance that the requirements are met. There is a duty on the organisation to take such action as is necessary and proportionate to ensure ongoing compliance.

The requirements are that the individual:

- is of good character
- has the qualifications, competence, skills and experience which are necessary for me to carry out my duties
- where applicable, have not been erased, removed or struck-off a register of professionals maintained by a regulator of healthcare or social work professionals
- is capable by reason of health of properly performing tasks which are intrinsic to the position
- is not prohibited from holding office (eg directors disqualification order)
- within the last five years:
  - has not been convicted of a criminal offence and sentenced to imprisonment of three months or more

- been un-discharged bankrupt nor have been subject to bankruptcy restrictions, or have made arrangement/compositions with creditors and has not discharged
- nor is on any ‘barred’ list.
- have not been responsible for, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying on a regulated activity or providing a service elsewhere which, if provided in England, would be a regulated activity.

Governors are required to complete a self-declaration on appointment and on an annual basis.

On 15<sup>th</sup> January 2024, Governors were requested to complete an online Fit Proper Persons Self Declaration form. An example self declaration is attached for information in Appendix A.

22 out of a possible 23\* Governors completed the annual self-declaration with no concerns raised. The full list of declarations received can be viewed in Appendix B.

*\*There are 25 Governors in total however currently there are 2 vacancies at 20<sup>th</sup> February 2024. These include the Public Governor – Rest of England & Wales seat and Nominated Governor – Liverpool City Council.*

## **2. Recommendations**

The Council of Governors is asked to note that the Governor ‘fit and proper persons’ self-declarations have been received as noted above, and all confirmed the criteria as met.

## Appendix A – Fit and Proper Person Self Declaration Form

### Fit and Proper Person Test annual/new starter\* self-attestation

#### Liverpool Heart and Chest Hospital

I declare that I am a fit and proper person to carry out my role. I:

- am of good character
- have the qualifications, competence, skills and experience which are necessary for me to carry out my duties
- where applicable, have not been erased, removed or struck-off a register of professionals maintained by a regulator of healthcare or social work professionals
- am capable by reason of health of properly performing tasks which are intrinsic to the position
- am not prohibited from holding office (eg directors disqualification order)
- within the last five years:
  - I have not been convicted of a criminal offence and sentenced to imprisonment of three months or more
  - been un-discharged bankrupt nor have been subject to bankruptcy restrictions, or have made arrangement/compositions with creditors and has not discharged
  - nor is on any 'barred' list.
- have not been responsible for, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying on a regulated activity or providing a service elsewhere which, if provided in England, would be a regulated activity.

The legislation states: if you are required to hold a registration with a relevant professional body to carry out your role, you must hold such registration and must have the entitlement to use any professional titles associated with this registration. Where you no longer meet the requirement to hold the registration, any if you are a healthcare professional, social worker or other professional registered with a healthcare or social care regulator, you must inform the regulator in question.

Should my circumstances change, and I can no longer comply with the Fit and Proper Person Test (as described above), I acknowledge that it is my duty to inform the chair.

Name and job title/role:	
Professional registrations held (ref no):	
Date of DBS check/re-check (ref no):	
Signature:	
Date of last appraisal, by whom:	
Signature of board member:	
Date of signature of board member:	

**For chair to complete**

Signature of chair to confirm receipt:	
Date of signature of chair:	

## Appendix B – Fit and Proper Person Self Declarations Received

Name	Constituency/Class	Annual Declaration Complete & Received
David Bromilow	Merseyside	Yes – no issues declared
Terence Comerford	Merseyside	Yes – no issues declared
Elaine Holme	Merseyside	Yes – no issues declared
Peter Humphrey	Merseyside	Yes – no issues declared
Ian Balmer	Merseyside	Completed declaration of interest form required
Ian Ferguson	Merseyside	Yes – no issues declared
Ray Davis	Cheshire	Yes – no issues declared
Denis McAllister	Cheshire	Yes – no issues declared
Allan Pemberton	Cheshire	Yes – no issues declared
Stephen Storey	Cheshire	Yes – no issues declared
Joan Burgen	North Wales	Yes – no issues declared
Dusty Rhodes	North Wales	Yes – no issues declared
Peter Wareham	North Wales	Yes – no issues declared
Vacant	Rest of England & Wales	N/A
Dr Jonathan Kendall	Staff – Registered Medical Practitioners	Yes – no issues declared
Lynsey Jackson	Staff – Non Clinical	Yes – no issues declared
Keith Wilson	Staff – Non Clinical	Yes – no issues declared
Dot Price	Staff – AHP, Technical & Scientific	Yes – no issues declared
Michelle Beaver	Staff – Registered & Non Registered Nurses	Yes – no issues declared
Sharon Faulkner	Staff – Registered & Non Registered Nurses	Yes – no issues declared
Princey Santhosh	Staff – Registered & Non Registered Nurses	Yes – no issues declared
Wendy Caulfield	Nominated Governor – Friends of Robert Owen House	Yes – no issues declared
Dr Neil French	Nominated Governor – University of Liverpool	Yes – no issues declared
Vacant	Nominated Governor - Liverpool City Council	N/A
Karen Higginbotham	Nominated Governor – Liverpool John Moores University	Yes – no issues declared